IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 1717 of 2005

Between:

Janagoan Fishermen Cooperative Society, Janagoan, Warangal District, Rep by its President Sri Erramalla Bhaskara Babu, S/o. Anjaiah, aged 44 years, R/o. Janagoan Village, Warangal District.

..... PETITIONER

AND

1 The Govt. of Andhra Pradesh, Rep by its Principal Secretary to Government, Animal Husbandry, Dairy Development & Fisheries Department, Secretariat, Hyderabad.
2 The District Collector, Warangal.
3 The Commissioner of Fisheries, Andhra Pradesh, at Hyderabad.
4 The Assistant Director of Fisheries, Warangal District.
5 The Election Officer, District Fishermen Cooperative Society Ltd., Warangal.
6 The Person-incharge, District Fishermen Cooperative Society Ltd., Warangal.

7 Sri Bolla Balaraju S/o.Narsaiah, Age:38 Yrs., President of Fishermen Cooperative Society, Ourugonda Village, Atmakur Mandal, Warangal District.

(R7 is impleaded as per the Court order dated 15-02-2005 in WPMP No.3048 o 2005). **.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any other Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the Telegram No. 488/Fish/II(1)2005-1 dated 29-1-2005 of the respondent No. 1 herein as arbitrary, illegal, without jurisdiction and voilative of principles of natural justice and consequently direct the respondent No. 5 herein to conduct the elections of the 6th respondent society forthwith in the interest of justice and equity and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.V.TULASI REDDY

Counsel for Respondents 1 to 4: G.P. for Fisheries

Counsel for Respondents 5: GP FOR COOPERATION

Counsel for Respondent No.7: Mr.J.Ramachandra Rao

The Court at the stage of admission made the following ORDER:

The petitioner is a Fishermen Cooperative Society, at Janagoan, Warangal District. It is affiliated to the District Fishermen Cooperative Society Limited. The term of the sixth respondent expired in the year 2002. Thereafter, it was under the management of person-in-charge. The Election Officer, the fifth respondent, issued a notification initially on 15-01-2005. On receiving instructions from the District Collector, the second respondent, the fifth respondent issued a notice dated 21-01-2005 postponing the elections. It was also indicated that a fresh notification would be issued on 27-01-2005. Accordingly, a notice dated 27-01-2005 was issued stipulating the election programme.

The first respondent stayed the election through telegraphic order dated 29-01-2005. This order is said to have been passed at the instance of one Sri Bolla Balaraju, President of Fishermen Cooperative Society, Ourugonda village, Atmakur Mandal, Warangal District, the seventh respondent herein. The seventh respondent, in fact, filed a caveat before this Court. From a reading of the same, it is evident that he approached the first respondent with a representation that out of 464 members in the District Fishermen Cooperative Society, the Assistant Director of Fisheries, the fourth respondent herein deleted the names of some of the members from the list of the members of the sixth respondent. The action of the first respondent in granting stay is challenged in this writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Fisheries.

Though the seventh respondent filed a caveat, and it was adjourned twice to enable him to appear before this Court, no representation is forthcoming.

The conduct of elections to different kinds of Cooperative Societies is governed by Rules 22 and 22-C of the Andhra Pradesh Cooperative Societies Rules, 1964 (for short 'the Rules'). Rule 22-C specifically empowers the election authority or the Government to postpone the elections for the reasons stated therein.

It is beneficial to extract Rule 22-C in its entirety.

22-C :-

1. Notwithstanding anything contained in these rules, the Government or the Election authority may direct the postponement of elections under one or more of the following circumstances:-

   i. Break down of law and order affecting the peaceful and lawful conduct of elections.

   ii. Any natural calamity that prevents the conduct of elections particularly, voters from participation in the election.

   iii. Where there is reasonable apprehension that voters will not be allowed to vote frankly and freely.

   (b) The postponement shall be done only by issue of an order which shall specify the grounds of postponement. After such postponement the election process shall be recommenced when the conditions become conducive for recommencing of election, by issue of an order by the Authority that has postponed the elections. The process will re-commence from the stage at which it was obstructed or interrupted.

The power of election authority or the Government is restricted only to the circumstances referred to in the said Rule. In other words, the elections once notified, cannot be postponed for any reasons other than those specified in the Rules.

In the instant case, the telegraphic order does not indicate the reasons on the basis of which the first respondent stayed the election. Even assuming that the ground pleaded by the seventh respondent in his representation/appeal before the first respondent is true and valid, it needs to be seen as to whether it falls into the said category.

The only allegation made on behalf of the seventh respondent was that the Assistant Commissioner of Fisheries had deleted the names of some of the members from the list of members of the sixth respondent. Even if it is true, the said ground does not constitute any basis for the postponement of election.

In ***M.A.R.V.S.SAI BABA v COMMISSIONER OF CO-OP. SOCIETIES***, this Court discussed the matter extensively and held that the Government cannot resort to indiscriminate postponement of elections on the grounds other than those specified in the relevant Rules.

Since it emerges that the basis for postponement of the elections does not fall within the grounds referred to in Rule 22-C of the Rules, the order of stay granted by the first respondent is set aside. Consequently, it is directed that the election authority shall proceed to hold the elections commencing from the stage, where it was stopped through the order of stay granted by the first respondent.

Accordingly, the writ petition is allowed. There shall be no order as to costs.

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15-02-2005

Note: Issue C.C. in three days

(B/o)

kdl

To

1 The Principal Secretary to Government, The Govt. of Andhra Pradesh, Animal Husbandry, Dairy Development & Fisheries Department, Secretariat, Hyderabad.

2 The District Collector, Warangal.

3 The Commissioner of Fisheries, Andhra Pradesh, at Hyderabad.
4 The Assistant Director of Fisheries, Warangal District.
5 The Election Officer, District Fishermen Cooperative Society Ltd., Warangal.

6 Two C.Cs. to the G.P. for Fisheries, High Court of A.P., Hyderabad, (OUT).

7 Two C.Cs. to the G.P. for Cooperation, High Court of A.P., Hyderabad, (OUT).

8 Two C.D. Copies.